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SUBJECT: EUROPEAN INDUSTRY WARY, AND WEARY, OF ITAR
REGULATIONS, BUT ON BOARD WITH COMPLIANCE

¶1. (SBU) Summary: At the "ITAR Compliance in Europe" conference in Munich, European defense industry representatives expressed concern regarding International Trafficking in Arms Regulations (ITAR), but clearly understood the message from U.S. legal, consulting and government representatives that ITAR compliance was a vital part of the defense industry. Approximately 65 defense industry delegates from across Europe attended two days of panel presentations from 35 presenters from the U.S. and Europe. End Summary.

¶2. (SBU) Panel participants represented the Departments of State, Commerce and Justice. They explained the spectrum of checks and enforcement mechanisms that exist to monitor and control U.S.-origin defense goods around the world. These include the Blue Lantern program for ITAR military items and a similar Commerce-BIS program for dual use items, as well as warning letters and civil penalties. In serious cases involving willful violations, the Justice Department will file criminal charges against both companies and individuals.

¶3. (SBU) The American legal and consulting industry's speakers presented a consistent message during the conference: an ounce of prevention is worth a pound of cure. They presented elements of best practices for ITAR compliance, including record keeping, performing independent internal audits and responding to government inquiries and enforcement actions. These presenters also recommended that, in the case of a violation, companies should strongly consider voluntary disclosure to U.S. export control authorities in an effort to mitigate their liability. As one US-based consultant said, "compliance is good business". The risks of non-compliance, he explained, are not just civil fines and criminal prosecution, but include the risks of expensive project delays and their concomitant reputational risk in the defense industry.

¶4. (SBU) European defense industry representatives voiced a number of concerns, frustrations and complaints about the ITAR system. The "deemed export" regulations were a source particular concern, with an executive of a large German aerospace company telling Econoff that what he fears most is an inadvertent deemed export from the US to his company of ITAR information. Another Dutch aerospace company representative said that the deemed export regulations were the "hardest things to get our heads around". Echoing these sentiments, more than one attendee said they feared that many of their U.S. suppliers do not understand ITAR regulations, putting the European customer at increased risk of committing a violation. Others spoke of lengthy delays in receiving export licenses or modifying existing licenses.

¶5. (SBU) The European defense attendees expressed a variety

of other concerns surrounding ITAR issues. A British defense industry company delegate explained the difficulties in certifying to USG authorities the citizenship of employees with access to ITAR information, citing national and EU privacy and anti-discrimination laws. One defense industry attendee related that he once considered "going ITAR free" on a project, sourcing all components outside of the ITAR scheme, but came under USG pressure not to do so. (Note: He did not indicate if he felt the USG exerted this pressure to allow the USG to keep a finger on the project, to promote U.S. defense exports, or for some other reason. End Note.)

¶6. (SBU) Comment: While the defense industry attendees focused on the most serious aspects of ITAR enforcement, criminal prosecutions, they did not shy away from their responsibilities. Rather, the pervasive tone of the conference, from both the European defense industry and their American attorneys and consultants, was one of wanting to comply with the ITAR rules. There was no / no explicit or implicit discussion of "cutting corners" or "how not to get caught". To the contrary, there was a recognition that, while ITAR compliance may be expensive and difficult, there is no substitute for a commitment to compliance, vigilance, and cooperation.

Koenig